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5 (509) 413-1004

Hon. Frank L. Kurtz

6 UNITED STATES BANKRUPTCY COURT
7 FOR THE EASTERN DISTRICT OF WASHINGTON

8 In Re:

Case No. 11-00257-FLK12
Chapter 12

9 EARL DRINKWATER AND
10 KATHY DRINKWATER,

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

11 Debtors.

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15 THIS MATTER having come before this Court for confirmation on the 12th
16 day of July, 2011, the Court having reviewed the Debtors' First Amended Chapter 12
17 Plan, the Trustee's Confirmation Summary and having heard argument of counsel
18 and otherwise considered the files and pleadings contained herein, the Court does
19 hereby make the following:

20 I. FINDINGS OF FACT

- 21 1. The Debtors Earl Drinkwater and Kathy Drinkwater filed a Chapter 12
22 Petition on January 20, 2011;
23 2. The Debtors filed a Chapter 12 Plan on or about April 20, 2011 (Docket
24 #25).
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FINDINGS OF FACT AND CONCLUSIONS
OF LAW - 1

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1 3. Objections to the Debtors' Chapter 12 Plan were filed by the Chapter 12
2 Trustee on or about April 26, 2011 (Docket #27) and by U.S. Bank on or about May
3 2, 2011 (Docket #37).

4 4. Debtors filed a First Amended Chapter 12 Plan on or about June 28,
5 2011 (Docket #42).

6 5. Objections to the Debtors' First Amended Chapter 12 Plan were filed by
7 U.S. Bank on or about July 7, 2011 (Docket #45).

8 6. The Debtors conducted their farming operations in 2011 using cash
9 generated from their orchard operations, which did not constitute cash collateral.

10 7. The Debtors' projected gross income from farming and non-farming
11 operations for the period of time from July 1, 2011 to December 31, 2011 is
12 \$259,600. The Debtors' projected expenses for that same period are \$177,970.00.
13 Payments to creditors for that period are projected to be \$39,898.39, as further
14 described in the First Amended Chapter 12 Plan and the budget attached thereto,
15 which was subsequently revised as described in the Order Confirming First Amended
16 Chapter 12 Plan.

17 8. The Debtors' projected gross income from farming and non-farming
18 operations for the period of time from January 1, 2012 to December 31, 2012 is
19 \$471,650. The Debtors' projected expenses for that same period are \$318,489.96.
20 Payments to creditors for that period are projected to be \$112,975.18, as further
21 described in the First Amended Chapter 12 Plan and the budget attached thereto,
22 which was subsequently revised as described in the Order Confirming First Amended
23 Chapter 12 Plan.

24 9. The Debtors' projected gross income from farming and non-farming
25 operations for the period of time from January 1, 2013 to December 31, 2013 is
\$471,650. The Debtors' projected expenses for that same period is \$318,489.96.
Payments to creditors for that period are projected to be \$110,656.52, as further

1 described in the First Amended Chapter 12 Plan and the budget attached thereto,
2 which was subsequently revised as described in the Order Confirming First Amended
3 Chapter 12 Plan.

4 10. The Debtors' projected gross income from farming and non-farming
5 operations for the period of time from January 1, 2014 to December 31, 2014 is
6 \$471,650. The Debtors' projected expenses for that same period is \$318,489.96.
7 Payments to creditors for that period are projected to be \$110,656.52, as further
8 described in the First Amended Chapter 12 Plan and the budget attached thereto,
9 which was subsequently revised as described in the Order Confirming First Amended
10 Chapter 12 Plan.

11 11. The Debtors' projected gross income from farming and non-farming
12 operations for the period of time from January 1, 2015 to December 31, 2015 is
13 \$471,650. The Debtors' projected expenses for that same period is \$318,489.96.
14 Payments to creditors for that period are projected to be \$110,656.52, as further
15 described in the First Amended Chapter 12 Plan and the budget attached thereto,
16 which was subsequently revised as described in the Order Confirming First Amended
17 Chapter 12 Plan.

18 12. All fees, charges or amounts required to be paid under Chapter 12 of
19 Title 28 U.S.C. or by the Plan have been paid prior to confirmation.

20 Based upon the foregoing Findings of Fact, the Court makes the following:

21 II. CONCLUSIONS OF LAW

22 1. The Debtors' First Amended Chapter 12 Plan complies with the
23 provisions of Chapter 12 and other applicable provisions of Title 28 of the United
24 States Code and Title 11 of the United States Code as well as all applicable
25 Bankruptcy Rules and Local Bankruptcy Rules.

1 2. The holder of each secured claim has accepted the First Amended
2 Chapter 12 Plan and will receive full payment of its secured claim and shall retain its
3 lien with existing priority until such payment has been made.

4 3. The Debtors' First Amended Chapter 12 Plan has been proposed in
5 good faith and not by any means forbidden by law.

6 4. The Debtors will be able to make all Plan payments and otherwise
7 comply with the terms of the First Amended Chapter 12 Plan and the Order
8 Confirming First Amended Chapter 12 Plan.

9 5. The Chapter 12 Trustee shall receive compensation pursuant to 28
10 U.S.C. § 586(e)(1)(B)(ii).

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12 PRESENTED BY:
13 SULLIVAN STROMBERG, PLLC

14 By: /s/ Brett T. Sullivan
15 Brett T. Sullivan, WSBA #24131
16 Attorneys for Debtors
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FINDINGS OF FACT AND CONCLUSIONS
OF LAW - 4

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1 APPROVED AS TO FORM AND CONTENT

2 FORD ELSAESSER
3 CHAPTER 12 TRUSTEE

4 /s/ Ford Elsaesser
5 Ford Elsaesser, Trustee

6
7 OGDEN MURPHY WALLACE, P.L.L.C.

8 Brian A. Walker, WSBA #26586
9 Attorneys for U.S. Bank
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FINDINGS OF FACT AND CONCLUSIONS
OF LAW - 5

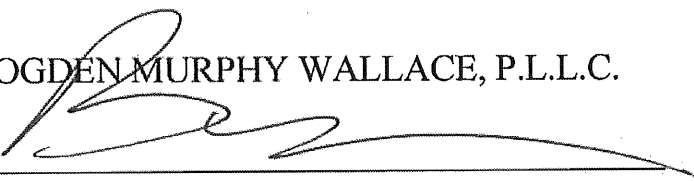
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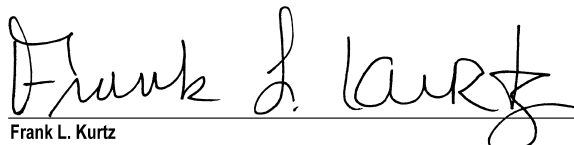
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9 Brian A. Walker, WSBA #26586
Attorneys for U.S. Bank

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24 Frank L. Kurtz
Bankruptcy Judge

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FINDINGS OF FACT AND CONCLUSIONS
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